SENATE BILL No. 358

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-28-5-5; IC 33-37.

Synopsis: Court fees. Makes a defendant found to have committed an infraction for failure to wear a safety belt liable for a \$25 safety belt enforcement fee. Makes a technical correction.

Effective: July 1, 2009.

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January 8, 2009, read first time and referred to Committee on Judiciary.



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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 358

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-28-5-5, AS AMENDED BY P.L.40-2007
SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 5. (a) A defendant against whom a judgment is
entered is liable for costs. Costs are part of the judgment and may no
be suspended except under IC 9-30-3-12. Whenever a judgment is
entered against a person for the commission of two (2) or more civi
violations (infractions or ordinance violations), the court may waive the
person's liability for costs for all but one (1) of the violations. This
subsection does not apply to judgments entered for violations
constituting:

- (1) Class D infractions; or
- (2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.
- (b) If a judgment is entered:
 - (1) for a violation constituting:
 - (A) except as provided in subsection (e), a Class D



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1	infraction; or
2	(B) a Class C infraction for unlawfully parking in a space
3	reserved for a person with a physical disability under
4	IC 5-16-9-5 or IC 5-16-9-8; or
5	(2) in favor of the defendant in any case;
6	the defendant is not liable for costs.
7	(c) Except for costs, and except as provided in:
8	(1) IC 7.1-3-18.5-6;
9	(2) IC 7.1-3-18.5-7;
10	(3) IC 9-19-11-2;
11	(4) IC 9-19-11-3;
12	(5) IC 9-19-11-3.3;
13	(6) IC 9-19-11-3.6;
14	(7) IC 9-21-5-11(e);
15	(8) IC 24-3-2-3;
16	(9) IC 35-46-1-10.2;
17	(10) IC 35-46-1-11.5;
18	(11) IC 35-46-1-11.7; and
19	(12) IC 35-46-1-11.8;
20	the funds collected as judgments for violations of statutes defining
21	infractions shall be deposited in the state general fund.
22	(d) A judgment may be entered against a defendant under this
23	section or section 4 of this chapter upon a finding by the court that the
24	defendant:
25	(1) violated:
26	(A) a statute defining an infraction; or
27	(B) an ordinance; or
28	(2) consents to entry of judgment for the plaintiff upon a pleading
29	of nolo contendere for a moving traffic violation.
30	(e) If a judgment is entered against a defendant for a Class D
31	infraction based on a violation of IC 9-19-10-8 (failure to wear a
32	safety belt), the defendant is liable for the safety belt enforcement
33	fee (IC 33-37-4-2.5), but is not otherwise liable for costs.
34	SECTION 2. IC 33-37-4-2.5 IS ADDED TO THE INDIANA CODE
35	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36	1, 2009]: Sec. 2.5. For each action that results in a judgment for a
37	violation of IC 9-19-10-8 (failure to wear a safety belt), the clerk
38	shall collect from the defendant a safety belt enforcement fee of
39	twenty-five dollars (\$25).
40	SECTION 3. IC 33-37-7-2, AS AMENDED BY P.L.122-2008,
41	SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42	JULY 1, 2009]: Sec. 2. (a) The clerk of a circuit court shall distribute



1	semiannually to the auditor of state as the state share for deposit in the
2	state general fund seventy percent (70%) of the amount of fees
3	collected under the following:
4	(1) IC 33-37-4-1(a) (criminal costs fees).
5	(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
6	(3) IC 33-37-4-3(a) (juvenile costs fees).
7	(4) IC 33-37-4-4(a) (civil costs fees).
8	(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
9	(6) IC 33-37-4-7(a) (probate costs fees).
10	(7) IC 33-37-5-17 (deferred prosecution fees).
11	(b) The clerk of a circuit court shall distribute semiannually to the
12	auditor of state for deposit in the state user fee fund established in
13	IC 33-37-9-2 the following:
14	(1) Twenty-five percent (25%) of the drug abuse, prosecution,
15	interdiction, and correction fees collected under
16	IC 33-37-4-1(b)(5).
17	(2) Twenty-five percent (25%) of the alcohol and drug
18	countermeasures fees collected under IC 33-37-4-1(b)(6),
19	IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
20	(3) Fifty percent (50%) of the child abuse prevention fees
21	collected under IC 33-37-4-1(b)(7).
22	(4) One hundred percent (100%) of the domestic violence
23	prevention and treatment fees collected under IC 33-37-4-1(b)(8).
24	(5) One hundred percent (100%) of the highway work zone fees
25	collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
26	(6) One hundred percent (100%) of the safe schools fee collected
27	under IC 33-37-5-18.
28	(7) One hundred percent (100%) of the automated record keeping
29 20	fee (IC 33-37-5-21). (c) The clerk of a circuit court shall distribute monthly to the county
30 31	auditor the following:
32	(1) Seventy-five percent (75%) of the drug abuse, prosecution,
33	interdiction, and correction fees collected under
34	IC 33-37-4-1(b)(5).
35	(2) Seventy-five percent (75%) of the alcohol and drug
36	countermeasures fees collected under IC 33-37-4-1(b)(6),
37	IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
38	The county auditor shall deposit fees distributed by a clerk under this
39	subsection into the county drug free community fund established under
40	IC 5-2-11.
41	(d) The clerk of a circuit court shall distribute monthly to the county
42	auditor fifty percent (50%) of the child abuse prevention fees collected
12	addition they percent (5070) of the entita abuse prevention fees concelled



1	under IC 33-37-4-1(b)(7). The county auditor shall deposit fees
2	distributed by a clerk under this subsection into the county child
3	advocacy fund established under IC 12-17-17.
4	(e) The clerk of a circuit court shall distribute monthly to the county
5	auditor one hundred percent (100%) of the late payment fees collected
6	under IC 33-37-5-22. The county auditor shall deposit fees distributed
7	by a clerk under this subsection as follows:
8	(1) If directed to do so by an ordinance adopted by the county
9	fiscal body, the county auditor shall deposit forty percent (40%)
10	of the fees in the clerk's record perpetuation fund established
11	under IC 33-37-5-2 and sixty percent (60%) of the fees in the
12	county general fund.
13	(2) If the county fiscal body has not adopted an ordinance
14	described in subdivision (1), the county auditor shall deposit all
15	the fees in the county general fund.
16	(f) The clerk of the circuit court shall distribute semiannually to the
17	auditor of state for deposit in the sexual assault victims assistance
18	account established by IC 5-2-6-23(h) one hundred percent (100%) of
19	the sexual assault victims assistance fees collected under
20	IC 33-37-5-23.
21	(g) The clerk of a circuit court shall distribute monthly to the county
22	auditor the following:
23	(1) One hundred percent (100%) of the support and maintenance
24	fees for cases designated as non-Title IV-D child support cases in
25	the Indiana support enforcement tracking system (ISETS)
26	collected under IC 33-37-5-6.
27	(2) The percentage share of the support and maintenance fees for
28	cases designated as IV-D child support cases in ISETS collected
29	under IC 33-37-5-6 that is reimbursable to the county at the
30	federal financial participation rate.
31	The county clerk shall distribute monthly to the office of the secretary
32	of family and social services the percentage share of the support and
33	maintenance fees for cases designated as Title IV-D child support cases
34	in ISETS collected under IC 33-37-5-6 that is not reimbursable to the
35	county at the applicable federal financial participation rate.
36	(h) The clerk of a circuit court shall distribute monthly to the county
37	auditor the following:
38	(1) One hundred percent (100%) of the small claims service fee
39	under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
40	the county general fund.
41	(2) One hundred percent (100%) of the small claims garnishee
42	service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for



1	deposit in the county general fund.
2	(3) One hundred percent (100%) of the safety belt
3	enforcement fee under IC 33-37-4-2.5 for deposit in the
4	county general fund.
5	(i) This subsection does not apply to court administration fees
6	collected in small claims actions filed in a court described in IC 33-34.
7	The clerk of a circuit court shall semiannually distribute to the auditor
8	of state for deposit in the state general fund one hundred percent
9	(100%) of the following:
10	(1) The public defense administration fee collected under
11	IC 33-37-5-21.2.
12	(2) The judicial salaries fees collected under IC 33-37-5-26.
13	(3) The DNA sample processing fees collected under
14	IC 33-37-5-26.2.
15	(4) The court administration fees collected under IC 33-37-5-27.
16	(j) The clerk of a circuit court shall semiannually distribute to the
17	auditor of state for deposit in the judicial branch insurance adjustment
18	account established by IC 33-38-5-8.2 one hundred percent (100%) of
19	the judicial insurance adjustment fee collected under IC 33-37-5-25.
20	(k) The proceeds of the service fee collected under
21	IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
22	follows:
23	(1) The clerk shall distribute one hundred percent (100%) of the
24	service fees collected in a circuit, superior, county, or probate
25	court to the county auditor for deposit in the county general fund.
26	(2) The clerk shall distribute one hundred percent (100%) of the
27	service fees collected in a city or town court to the city or town
28	fiscal officer for deposit in the city or town general fund.
29	(l) The proceeds of the garnishee service fee collected under
30	IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
31	follows:
32	(1) The clerk shall distribute one hundred percent (100%) of the
33	garnishee service fees collected in a circuit, superior, county, or
34	probate court to the county auditor for deposit in the county
35 36	general fund.
	(2) The clerk shall distribute one hundred percent (100%) of the
37	garnishee service fees collected in a city or town court to the city
38	or town fiscal officer for deposit in the city or town general fund.
39	SECTION 4. IC 33-37-7-8, AS AMENDED BY P.L.224-2007,
40	SECTION 120, IS AMENDED TO READ AS FOLLOWS
41	[EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The clerk of a city or town
42	court shall distribute semiannually to the auditor of state as the state



1	share for deposit in the state general fund fifty-five percent (55%) of	
2	the amount of fees collected under the following:	
3	(1) IC 33-37-4-1(a) (criminal costs fees).	
4	(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).	
5	(3) IC 33-37-4-4(a) (civil costs fees).	
6	(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).	
7	(5) IC 33-37-5-17 (deferred prosecution fees).	
8	(b) The city or town fiscal officer shall distribute monthly to the	
9	county auditor as the county share twenty percent (20%) of the amount	
10	of fees collected under the following:	
11	(1) IC 33-37-4-1(a) (criminal costs fees).	
12	(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).	
13	(3) IC 33-37-4-4(a) (civil costs fees).	
14	(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).	
15	(5) IC 33-37-5-17 (deferred prosecution fees).	
16	(c) The city or town fiscal officer shall retain twenty-five percent	
17	(25%) as the city or town share of the fees collected under the	
18	following:	
19	(1) IC 33-37-4-1(a) (criminal costs fees).	
20	(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).	
21	(3) IC 33-37-4-4(a) (civil costs fees).	
22	(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).	
23	(5) IC 33-37-5-17 (deferred prosecution fees).	
24	(d) The clerk of a city or town court shall distribute semiannually to	_
25	the auditor of state for deposit in the state user fee fund established in	
26	IC 33-37-9 the following:	_
27	(1) Twenty-five percent (25%) of the drug abuse, prosecution,	
28	interdiction, and correction fees collected under	
29	IC 33-37-4-1(b)(5).	
30	(2) Twenty-five percent (25%) of the alcohol and drug	
31	countermeasures fees collected under IC 33-37-4-1(b)(6),	
32	IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).	
33	(3) One hundred percent (100%) of the highway work zone fees	
34	collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).	
35	(4) One hundred percent (100%) of the safe schools fee collected	
36	under IC 33-37-5-18.	
37	(5) One hundred percent (100%) of the automated record keeping	
38	fee (IC 33-37-5-21).	
39	(e) The clerk of a city or town court shall distribute monthly to the	
40	county auditor the following:	
41	(1) Seventy-five percent (75%) of the drug abuse, prosecution,	
42	interdiction, and corrections fees collected under	



1	IC 33-37-4-1(b)(5).
2	(2) Seventy-five percent (75%) of the alcohol and drug
3	countermeasures fees collected under IC 33-37-4-1(b)(6),
4	IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
5	The county auditor shall deposit fees distributed by a clerk under this
6	subsection into the county drug free community fund established under
7	IC 5-2-11.
8	(f) The clerk of a city or town court shall distribute monthly to the
9	city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
10	percent (100%) of the following:
11	(1) The late payment fees collected under IC 33-37-5-22.
12	(2) The small claims service fee collected under
13	IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
14	(3) The small claims garnishee service fee collected under
15	IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).
16	(4) The safety belt enforcement fee collected under
17	IC 33-37-4-2.5.
18	The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
19	fees distributed by a clerk under this subsection in the city or town
20	general fund.
21	(g) The clerk of a city or town court shall semiannually distribute to
22	the auditor of state for deposit in the state general fund one hundred
23	percent (100%) of the following:
24	(1) The public defense administration fee collected under
25	IC 33-37-5-21.2.
26	(2) The DNA sample processing fees collected under
27	IC 33-37-5-26.2.
28	(3) The court administration fees collected under IC 33-37-5-27.
29	(h) The clerk of a city or town court shall semiannually distribute to
30	the auditor of state for deposit in the judicial branch insurance
31	adjustment account established by IC 33-38-5-8.2 one hundred percent
32	(100%) of the judicial insurance adjustment fee collected under
33	IC 33-37-5-25.
34	(i) The clerk of a city or town court shall semiannually distribute to
35	the auditor of state for deposit in the state general fund seventy-five
36	percent (75%) of the judicial salaries fee collected under
37	IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
38	percent (25%) of the judicial salaries fee collected under
39	IC 33-37-5-26. The funds retained by the city or town shall be

prioritized to fund city or town court operations.

